

The Professional Foresters Law and the role of the REGISTERED FORESTER PROFESSIONAL in Managing California's Forests



January 1, 1999

A public informational statement by the Professional Foresters Examining Committee

PURPOSE - This document is written for the general public by the Professional Foresters Examining Committee. Its purpose is to explain the role of Registered Professional Foresters in the context of California's lands, laws, and professional licensing requirements. The Professional Foresters Examining Committee was created under law by the California State Board of Forestry and Fire Protection to take charge of the registration, examination, and the licensing of Registered Professional Foresters. The Board of Forestry and Fire Protection is a Governor-appointed body within the Department of Forestry and Fire Protection with diverse powers and responsibilities that are spelled out in law. Created in 1885, it was the first such body in the nation. The Board is responsible for developing the general forest policy of the state, for determining the guidance policies of the Department of Forestry and Fire Protection, and for representing the State's interest in the management of non-federal as well as federal forest land in California.

CALIFORNIA'S FORESTS

A forest is a complex interrelationship of soil, air, water, climate, trees, plants, fish, wildlife, grazing animals, and people, together with their machines and structures.

California possesses vast and valuable forest resources. The State ranks second in the Nation in total forest land. It has a wide range of climates, elevations, slopes, geology, and vegetation conditions, so its forest resources are naturally quite diverse as well as very precious. The variety is manifested in the large stands of timber, including 21 species of hardwoods and conifers that are native only to California, as well as in the thousands of species of plants, fish, and wildlife that inhabit these forested landscapes.

California's forested landscapes encompass some 32,560,000 acres, nearly one third of the State, and include commercial timberland, parks, wilderness, chaparral, and woodland. Approximately 50% of these lands belong to the federal government, 44% are under private ownership, with the remainder in State possession. From these acres come nearly all of the State's fresh water, about half of the lumber and plywood used in California, much of the range for cattle and sheep, invaluable habitat for game and wildlife, and some of the most spectacularly beautiful scenery and recreational opportunities to be found anywhere.

Because of the increasing demands being placed on California's forest resources, a careful balance must be kept between human needs and the environment in order to sustain its natural wealth. This sustainability can only be achieved through the proper application of forestry principles and sound management practices.

FORESTRY

Forestry is the art, science, and practice of managing forested landscapes for the production and conservation of timber, water, recreation, aesthetics, and other forest resources, as well as the protection of environmental benefits derived from forests. The practice of forestry includes investigation and consideration of the soils, plants, wildlife, water, and ecological processes found in the forest.

Humans lay a heavy burden on forest resources which provide people with many essential goods from drinking water to paper products. Fortunately, forests are a renewable commodity provided that proper care is taken. Registered Professional Foresters are charged with the care and management of California's forests.

THE REGISTERED PROFESSIONAL FORESTER

A Registered Professional Forester (RPF) is a person knowledgeable in a wide range of studies such as biology, ecology, entomology, geology, hydrology, dendrology, silviculture, engineering, business administration, and forest economics. RPFs use their well-rounded background to maintain the productivity of forest resources like timber, forage, wildlife, water, and outdoor recreation to meet the needs of the people while protecting the ecology and quality of the forest environment.

RPFs organize and direct systems of control for forest fires, insect pests, and tree diseases. They determine the environmental impacts of management decisions and the needs and locations for reforestation projects. They prescribe thinning for an immature stand of trees or removal of defective ones for stand improvement.

RPFs measure the volume of standing timber, appraise its market value, plan its harvest, and administer the sale of the mature timber.

Foresters also help plan for recreational uses of the forest including the maintenance of its natural beauty. Occasionally, they are called upon to renovate or restore overused or abused forest sites and recreational areas. In addition, Registered Professional Foresters must be well-versed in federal, state, and local laws affecting forestry practices in California in order to administer them properly.

Because forestry activities can have a significant impact upon the ecology of California's forests and the quality of the forest environment, the State legislature enacted the Professional Foresters Law in 1972, which provides for the licensing of professional foresters.

PROFESSIONAL FORESTERS LAW OF 1972

California's Professional Foresters Law (PFL) became effective on January 1, 1973. The PFL outlines the guiding principles and responsibilities of Registered Professional Foresters and provides the State with vital professionals who are knowledgeable in developing and carrying out forest management plans. All persons who wished to call themselves "professional foresters" or to act in the capacity thereof, were required to register and become licensed by July 1, 1973.

With the passage of the PFL, the Legislature declared the existence of a public interest in the management and treatment of the forest resources and timberlands in California and regulates all persons who practice the profession of forestry. The intent of the Law is to provide a source of forest management experts-- knowledgeable, trained, experienced and skilled in the scientific fields relating to forestry.

QUALIFICATIONS:

The terms and conditions for becoming a Registered Professional Forester are explained in greater detail in the California Code of Regulations. Minimum qualifications include:

- a) Good moral character and a good reputation for honesty and integrity.
- b) Seven years of experience in forestry work (three years of which must be having charge of forestry work or be under the supervision of an RPF).
- c) Pass the comprehensive examination administered by the Professional Foresters Examining Committee (PFEC) with a score of 75% or greater.
- d) Registration is limited to individuals. That is, no firm, company, partnership, or corporation will be issued a professional foresters license or specialty certificate.

A person may substitute a Bachelor of Science in Forestry degree or a Bachelor of Science degree with a Major in Forestry for four years of work experience. A Master of Forestry, in combination with a Bachelor of Arts or Science degree majoring in a field other than forestry, can also be used in lieu of four years of forestry work experience.

An Application for Registration and License as a Professional Forester must be filed with the Board of Forestry and Fire Protection before an applicant can be scheduled for examination. Should the person's registration application be denied, the individual will be notified in writing by the PFEC and will have the right to appeal to the Board within 30 days upon receipt of the notice. After the registration process is completed, a person may take the examination. Again, should the individual fail the examination, the examinee has the right to appeal to the Board of Forestry and Fire Protection. An individual is eligible to be licensed after passing the test. Once the proper licensing fee has been submitted to the Board, the examinee is then issued a license as a Registered Professional Forester.

RESPONSIBILITIES:

Being a Registered Professional Forester carries with it many responsibilities. The term "Registered Professional Forester" is defined in the Professional Foresters Law as:

a person who, by reason of his or her knowledge of the natural sciences, mathematics, and the principles of forestry, acquired by forestry education and experience, performs services, including, but not limited to, consultation, investigation, evaluation, planning or responsible supervision of

forestry activities when [such] professional services require the application of forestry principles and techniques. [PRC §752]

The RPF's primary concern, irrespective of private or public interests, is to enhance the basic productive forest resources while protecting the soil, wildlife, and water quality. Consequently, it is mandatory that the individual keep currently informed of professional matters, techniques and equipment, their uses and limitations, and applicable laws and regulations.

In a recent Memorandum of Understanding between the PFEC, various professional societies, and universities with forestry or forestry-related programs, it was agreed upon that a concerted effort be made to raise the visible participation of forestry professionals in continuing education programs through voluntary incentives and recognition. A voluntary tracking system to assist foresters in the documentation of their continuing education activities has also been established.

Before making planning or management recommendations, Registered Professional Foresters must learn the physical characteristics of the site or area, its soils, hydrology, vegetation, silvicultural characteristics, cultural features, wildlife and their habitat requirements, its land use zoning, and its economic realities.

RPFs must make every reasonable effort to educate clients or employers about environmentally and economically sound management options for their properties. They must take into consideration impacts on and off the site when formulating and executing plans for forestry operations, and clearly point out to clients or employers possible conflicts which might arise from such activities.

Particular notice should be given to situations which may induce irreversible environmental change, and justification for any necessary changes should be clearly established. RPFs must consider and, to the extent practicable, avoid or mitigate consequences of plans and actions which will impact adjoining land ownerships. Timber harvesting plans or other land-use management plans must be based on the best available site information, including site inspection.

Registered Professional Foresters must be thorough and accurate, and must refrain from false or misleading statements and dishonest acts. An RPF must provide an adequate level of supervision over professional and technician subordinates to assure acceptable standards of performance. The Registered Professional Forester must prepare legible work and assume responsibility for all professional documents which the forester prepared or supervised by affixing his or her signature and license number. Lastly, the RPF must clearly communicate the needs and benefits of good forestry to the general public.

MEMORANDUM OF UNDERSTANDING WITH THE FOREST SERVICE:

Since the federal government owns roughly half of the forested acres in California, there has been a need to delineate the role of Registered Professional Foresters on federal lands. On September 27, 1992 a Memorandum of Understanding was entered into by the Board of Forestry and Fire Protection and the United States Department of Agriculture, Forest Service (USFS). The memorandum's intent is:

[to clarify] the role of the Registered Professional Forester (RPF) as it relates to the management of California's federally owned wildlands, and to provide guidance on how to deal with situations where federal and state authority overlap as it relates to the implementation of the Professional Foresters Law.

The memorandum also specifies what constitutes forestry activities for both federal and state foresters. Among the points agreed upon are that any USFS employee practicing forestry on non-federal lands must be a Registered Professional Forester or under the direct supervision of one. Federal employees practicing on federal forest lands must either be a Registered Professional Forester, be working under the supervision of one, or be equivalently qualified as defined in the memorandum. Those who are not USFS employees but are practicing forestry on federal lands must also be Registered Professional Foresters or be directly

supervised by an RPF.

DISCIPLINARY ACTION:

Should the RPF fail to meet expected standards, the individual may be subject to disciplinary action. The grounds for disciplinary action which are delineated in the Professional Foresters Law include:

- a) Having been convicted of a felony substantially related to the qualifications, functions, or duties of Registered Professional Forester.
- b) Having been found guilty by the Board of any deceit, misrepresentation, fraud, material misstatement of fact, incompetence, or gross negligence in the practice of forestry.
- c) Being guilty of any fraud or deceit in obtaining his or her registration or certification.
- d) Aiding or abetting any person in the violation of any provision of the Professional Foresters Law.
- e) Failing in any material respect to comply with the provisions of the Professional Foresters Law. [PRC §778]

A written complaint can be filed with the Board of Forestry and Fire Protection by any person regarding questionable behavior of a Registered Professional Forester. The Executive Officer must verify the legality of the accusation before an investigation can take place. The Board may also, of its own accord, cause an inquiry to be conducted. Further elaboration regarding the complaint process, as well as the registration and the examination procedures, can be found in the Licensing Policy Statements.

Once the investigation is underway, the RPF is given the opportunity to respond in writing to the accusations. The complaint and the response may be subject to review by the PFEC as well as by the RPF's peers. Pending trial, the Board can either suspend or revoke the license, issue a reprimand, or exonerate the individual. In regards to disciplinary actions, the Board has clearly stated that "[t]he primary importance [in determining disciplinary action] is the adverse effect the Registered Professional Forester's actions had, or will continue to have, on the protection of the public interest" [14 CCR §1612.1].

PROFESSIONAL ETHICS:

Registered Professional Foresters are responsible for their own professional behavior and must, therefore, conduct themselves in a prudent manner to retain public confidence. They must not only meet the expected high standards of performance but must also function within the professional community's generally accepted code of ethics.

One of the most important duties imposed by professional ethics is the RPF's concurrent responsibility to the public and to the client. Both the public's interest and the employer's carry equal significance and must be dealt with accordingly. Prudent professional practice dictates that Registered Professional Foresters should not make forest management decisions at the expense of the public trust nor of the employer, but instead base judgments on sound forestry principles consistent with environmental laws.

Prudent practice also demands that Registered Professional Foresters recommend legal advice to be obtained on possible questions of interpretation or conflict; and further that they inform their employers or clients of anticipated general consequences, both legal and environmental, if the forester's professional judgment is disregarded.

Registered Professional Foresters should represent and uphold the employer's or client's interests in all matters entrusted to them, including maintenance of confidentiality. They should make conflicts of interest known to the parties concerned and have them resolved, and they should accept no compensation from more than one party for the same services unless the parties involved have given consent.

Professional ethics also demand that in all dealings with clients or employers, RPFs should perform only those services for which they are qualified as a result of their technical training, knowledge, and experience.

If the work assignment or contract is beyond the capability of the forester, the Professional Foresters Law mandates that the RPF consult other skilled experts better versed in the field. To illustrate, the RPF, in preparing the timber harvest plans, may refer to the Wildlife Society and request for an expert in wildlife biology to advise on the effects of timber harvesting on the local wildlife environment. Professional societies will sometimes have their own certification programs to demonstrate the competency of their professionals.

The RPF can also take advantage of various licensed professions for input on the project. These forestry-related professions are under separate statutory authority and include the following:

- Licensed Pest Control Advisor
- Licensed Timber Operator
- Licensed Landscape Architect
- Registered Civil Engineer
- Licensed Land Surveyor
- Licensed Geologist and Geophysicists
- Licensed Real Estate Appraiser

The Professional Foresters Law also provides for certification in particular fields [PRC §752]. A similar process to becoming a Registered Professional Forester applies to becoming a Certified Specialist, but the test is more specific to the field of specialization. Currently, the Board of Forestry and Fire Protection has established only one specialty, that of the Certified Rangeland Manager. Certified Specialists are yet another source of aid and expertise that Registered Professional Foresters can utilize in fulfilling all their responsibilities with regards to a project.

ENVIRONMENTAL LAWS PERTAINING TO FORESTRY IN CALIFORNIA

FEDERAL ENVIRONMENTAL LEGISLATION:

Four of the most important federal environmental laws that govern forest practices in California are the Clean Water Act (CWA), the Federal Endangered Species Act of 1973 (ESA), the National Environmental Policy Act (NEPA), and the National Forest Management Act of 1976 (NFMA).

The **Clean Water Act** calls for state and local agencies to use the best available techniques, referred to as "best management practices" (BMP), in minimizing water pollution from nonpoint sources, such as timber operations [33 U.S.C. §1288]. Nonpoint sources produce discharges from a large area that cannot easily be traced to a point of origin. In California, the State Water Quality Control Board has been assigned by the federal government to implement the Clean Water Act.

The **Federal Endangered Species Act's** purpose is to provide programs to conserve threatened and endangered species [16 U.S.C. §1531(b)]. The Act forbids logging and other activities that harm threatened or endangered species or their critical habitats, unless they are in conformance with recovery plans developed and administered by the Secretary of the Interior. Individual habitat management plans may be prepared and must include the potential impact on the species and must also suggest mitigations for any negative consequences [16 U.S.C. §1539].

Other examples of federal laws affecting the management of federal lands in California are the **National Environmental Policy Act** and the **National Forest Management Act**. NEPA requires that federal agencies evaluate all activities which may have significant consequences on the environment. The Act further demands that an environmental impact statement (EIS) regarding the project's repercussions on its

surroundings be made available to other agencies and to the public. Land-management plans for national forests must, therefore, include an EIS to enable the Forest Service to mitigate any adverse effects on the environment.

NFMA mandates that national forest plans must "provide for the diversity of plant and animal communities based on the suitability and capability of the specific land area . . . [16 U.S.C. §1604]. This was interpreted by the Forest Service regulations to mean that "[f]ish and wildlife habitat shall be managed to maintain viable populations of existing native and desired nonnative vertebrate species in the planning area" [36 C.F.R. §219.19].

STATE ENVIRONMENTAL LEGISLATION:

In general, federal laws take precedence over state and local laws. They may, however, designate state or local agencies to achieve certain national goals. In addition, states may adopt laws to carry out federal government mandates. A prime example of this in California is the **Porter-Cologne Act of 1969** which allows the State Water Resources Control Board (SWRCB) to regulate the water quality control of the state as directed by the requirements of the federal Clean Water Act. Timber operations and other forestry practices that may affect water quality are accordingly subject to the SWRCB and the Regional Water Quality Control Board oversight.

States also enact laws to protect their specific interests. The **California Endangered Species Act (CESA)**, modeled after the Federal Endangered Species Act, gives additional protection not covered by its federal counterpart to threatened and endangered species in California. It makes the conservation, protection, restoration, and the enhancement of any threatened or endangered species and their habitat a policy of the State [Cal. Fish and Game Code §2052]. CESA has added several plants and animals, mostly native to California, to its threatened and endangered species list, since they were not included in the federal ESA. Conservation, according to both federal and state law, is defined to be the use of all methods and procedures "necessary to bring any endangered . . . or threatened species to the point at which the measures provided [by the acts] are no longer necessary" [U.S.C. §1532(3); 50 C.F.R. §424.02(c); Cal. Fish and Game Code §2061].

The **California Environmental Quality Act of 1973** is another state law with a complement in the federal government's NEPA. While NEPA primarily covers the federal lands in California, CEQA applies to all state and private properties. Like NEPA, CEQA requires that state and local government agencies prepare an environmental impact report (EIR) before undertaking or issuing a permit for any project with possible environmental repercussions. CEQA's EIR is the State's analogue to NEPA's environmental impact statement. In addition to the EIR requirement, CEQA dictates that for projects which might affect the environment negatively, the agency must require feasible alternatives to reduce those impacts to where they are no longer significant; or if harmful effects should be unavoidable, provide a justification of overriding consideration.

The **Z'berg-Nejedly Forest Practice Act of 1973** also parallels the NFMA of the federal government but goes further in regulating private forestry practices. Whereas the NFMA regulates federal forest lands, the FPA governs the management of non-federal timberlands in California. The Act, in conjunction with the Professional Foresters Law, was established to address the public's growing concern over timber harvesting.

To accomplish its goals the FPA includes certain provisions such as the requirement that all persons who harvest timber obtain an annual timber operator's license from the California Department of Forestry and Fire Protection (CDF). A timber harvest plan (THP) must also be submitted to the Director of CDF for review and approval prior to harvesting timber. Moreover, the Forest Practice Act requires the preparation of THPs to be done by Registered Professional Foresters (RPF) to insure that the plans are drafted by qualified persons.

In 1979, the Secretary of the Resources Agency certified the timber harvest plan process in the Forest

Practice Act to be the "functional equivalent" of CEQA's environmental impact report process. Thus, the FPA was exempted from the EIR preparation requirement of CEQA. Following harvest, the Act orders that areas be restocked according to proper standards.

Under the authority of the FPA, the Board of Forestry and Fire Protection has adopted rules and regulations to implement its mandate to sustain forest productivity while protecting the forest environment. The rules contain more specific guidelines concerning:

- the preparation, review, appeal, and enforcement of THPs
- silvicultural systems and regeneration methods
- harvesting practices and erosion control
- site preparation
- watercourse and lake protection
- sensitive watershed designation
- hazard reduction (which includes fire safety measures)
- forest insect and disease protection practices
- wildlife protection (including sensitive, threatened and endangered species)
- cumulative effects assessment
- late successional forest stands
- maximum sustained production of high quality timber
- long-term sustained yield plans
- special rules for Coastal Commission areas
- archeological and historical resource preservation
- the registration of professional foresters and forestry-related specialists

The extent to which the public has confidence in the forestry profession rests with the integrity of each Registered Professional Forester and with that forester's performance in working to protect and wisely utilize the state's forest resources. The responsibility for the actions of the individual Registered Professional Forester lies with that individual. Because foresters are accountable to the public, whether it is the employer or the general public, it is imperative that the RPF comply with applicable laws and regulations and assist their clients to do likewise.

For further information regarding forestry practices in California and the registration of professional foresters, please contact the State Board of Forestry and Fire Protection at the following address:

Daniel R. Sendek, Executive Officer
Professional Foresters Registration
California State Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460
Tel. No. (916) 653-8031
Fax No. (916) 657-5386
foresters_licensing@fire.ca.gov
www.fire.ca.gov/bof/licensing

MATERIALS AVAILABLE THROUGH THE CALIFORNIA STATE BOARD OF FORESTRY AND FIRE PROTECTION:

- Professional Foresters Law
- Title 14, California Code of Regulations: Registration of Professional Foresters
- Memorandum of Understanding with the United States Department of Agriculture, Forest Service (USFS)
- Licensing Policy Statements
- Z'berg-Nejedly Forest Practice Act of 1973

For copies of the following documents, please mail request to:

**Daniel R. Sendek, Executive Officer
Professional Foresters Registration
California State Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460
(916) 657-5386**

Or fax request to:

I would like copies of:

- _____ Professional Foresters Law
- _____ Title 14, California Code of Regulations: Registration of Professional Foresters
- _____ Memorandum of Understanding with the USDA Forest Service (USFS)
- _____ Licensing Policy Statements
- _____ Z'berg-Nejedly Forest Practice Act of 1973